5.—

SPEECH

OF

HON. L. H. DAVIES, M.P.

ON THE

REMEDIAL BILL

HOUSE OF COMMONS, OTTAWA, FRIDAY, 13TH MARCH, 1896

Mr. DAVIES (P.E.I.) Mr. Speaker, the generous measure of applause which greeted the Finance Minister when he resumed his seat this afternoon indicated that at least a large portion of his followers in this House were well satisfied with his forensic effort. And I am free to say, Sir, that, as an elocutionary effort it deserves no small praise. The manner in which it was delivered, the voice, the diction, the emphasis given to the several sentences, were deserving of admiration. But when one comes to examine calmly and coolly into the propositions which the hon. gentleman asked this House to support, when one comes to analyse quietly the gist of the speech to find out what the speaker was attempting to prove and what arguments he advanced to prove it, there comes upon one an intense feeling of disappointment.

As a speech to be delivered upon a public platform, what is called a stump speech, in which a large amount of claptrap necessarily must find place, I think the speech of the hon. gentleman would be entitled to very high praise, indeed. But, Sir, I venture to say that to those cool and calm members of Parliament who desire to inform their minds clearly and distinctly upon the important and grave issues which they are called upon to decide, very little comfort can be found in that speech. The hon. gentleman commenced by telling us in a casual kind of way, that after all said and done, the issue was not so very important, and that it was rather a trivial matter; and he wound up with telling us, not like Napoleon told his troops, that forty centuries looked down upon them, but that the eyes of the world were centred upon the vote which this Parliament was about to give. The hon. gentleman told us, in opening, that the question of separate schools was not an issue here at all, that it was imbedded in the constitution itself, and could not be eradicated; and then the hon. gentleman went on to say that we had a right in approaching this question, to brush to one side altogether the question of provincial rights, and the question of precedents, so far as they might affect the other provinces of the Dominion, and the question of separate schools. But, notwithstanding that in his exordium he asked us to brush these important matters all to one side, seven-tenths of the hon. gentleman's speech was taken up with endeavouring to show that this was not an invasion of provincial rights, that this was not a bad precedent for Parliament to adopt; and that separate schools themselves were excellent things, which had the approval of very distinguished men, and should receive the approval of both sides of this House. Sir, I could have pardoned the hon. gentleman if he has spared me at least that homily which he delivered upon the necessity of public men keeping good faith towards those with whom they were associated. He told us that the observance of good faith was absolutely essential to social, commercial, national, but he had the courage to omit, political, welfare. Sir, this comes from an hon. gentleman who, twelve months ago, joined the ranks of a Premier who was forming a Cabinet, pledged his honour and good faith to deal squarely, honestly, and above-board, with that Premier, and spent twelve months in undermining the Premier he had sworn to defend, and uphold, and after he had agreed upon the Governor's speech to be submitted to Parliament, and had himself placed his name on the paper to move its adoption, suddenly constituted himself the chief of what was termed by his Premier, a nest of traitors, resigned his place in the Government, tried to assassinate his chieftain, by

poignarding him in the back, and was thus guilty of the blackest treachery that any public man has ever shown towards his chief in this or any other country. And after vainly endeavouring to destroy the chieftain he had sworn to support, he crawled back into office for the purpose of obtaining his salary and appointment, which he now holds at the beck and will of a gentleman he practically declared was an imbecile, and unfit to lead a Government. For that hon. gentleman to read this House a homily upon good faith, is a little too much for me to stand.

THE NOVA SCOTIA OUTRAGE.

Sir, the hon. gentleman, at any rate, has a certain amount of courage. He did not scruple in this House to-day to defend a political outrage committed in this country some twenty-five years ago, which few other public men have ever had the hardihood to speak in defence of. The leader of the Opposition, in his remarks the other day, referred to the ill effects which flowed from a policy of coercion towards any particular province, and to the good effects which flowed from conciliation and fair treatment to the people. And he pointed out the effect of confederation in Ontario, Quebec and New Brunswick, and the different effect which a different policy had in the province of Nova Scotia. He showed, Sir, that in the province of New Brunswick, the question had been fairly and honestly submitted to the people, and the people, having had a chance to pass judgment upon it, had loyally submitted to the effect of their verdict ever since; while in the adjoining province of Nova Scotia, where the opposite policy was adopted, there is rankling in the breast of every elector who was then living, and is living still, a feeling of resentment and hatred towards confederation, which a quarter of a century has not served to eradicate. That hon. gentleman now comes forward to-day and justifies that action by saying that the same policy was pursued in the provinces of Ontario and Quebec. Why, Sir, he ought to know, as every one else knows, that in the province of Ontario and Quebec, the leading public men and the several parties were united upon this great policy of confederation, and were backed up by an enormous majority of the people. There was not, I am told, from the great province of Ontario, a single petition laid upon the Table against it; whereas, in Nova Scotia, from one end of that province to the other, the people rose up almost in practical rebellion against the measure. But during the last hours of a dying Parliament, by means alone known to those who carried it, a majority of the people's representatives were obtained, against the will of the people, and in violation of their understood pledges, to destroy the old constitution of Nova Scotia, and to force this new measure down the throats of the people against their will. The result has been, as I said before, that to this day you cannot travel through any single part of that great province without finding in the hearts of the people who then were electors, the bitterest feeling against confederation, caused, not by confederation itself, but caused by the dastardly way in which it was forced upon them.

SCRAP BOOK QUOTATIONS.

Now, Sir, the hon. gentleman, in addressing himself to what he thought was the question before the House, indulged in a style of argument which I think is hardly creditable to a man occupying his high position. The hon. gentleman read here by the hour scrap-book quotations showing what this public man said many years ago, and what he said afterwards; and how there was this inconsistency and that inconsistency. Sir, I think we should have got beyond that style of debating on this great and grave question. It is not a question of whether Mr. A. has been strictly consistent, or whether Mr. B. has been strictly consistent; no doubt each of them would be able to show, if occasion required, that there was no inconsistency between the two statements quoted. But I say that scrap-book quotations are not the arguments that we require when we are approaching a question which his leader designated the other day as one of the most transcendent importance that had ever engaged the attention of this Parliament since confederation. Now, Sir, the hon. gentleman referred to the great debates which took place in the old Parliament of Canada, known as the confederation debates, to statements which were made in those debates by leading public men as to their intentions with regard to the school question, and the question of education in the two larger provinces of the Dominion. He quoted from Sir Alexander Galt, and from Mr. Sandfield Macdonald and other leading men, to show that there was an understanding at that time, an understanding firmly come to before the Bill passed, that in the great provinces of Ontario and Quebec this question of education should be settled once for all; and that that understanding resulted in a compact being come to whereby the Protestant minority in the province of Quebec and the Catholic minority in the province of Ontario were to be secured in certain educational rights.

THE EDUCATION COMPACT IN ONTARIO AND QUEBEC.

With what object were these speeches quoted? I have sat for thirteen or fourteen years in this House; I have been a pretty constant and assiduous reader of the new

paper press, and I never yet heard any public man in his place in this House, nor have I ever known any one of the leading newspapers of the country, assert that the solemn compact entered into at that time with respect to the rights of the minorities of Ontario and Quebec, as regards education should be interfered with. Why, we know, and every one knows, that the rights which were granted to those minorities were assured to them by compact contained in the British North America Act, which it is not within the power of either the legislature of Ontario, or the legislature of Quebec to contravene, abridge, or interfere with. We know, that, if the province of Ontario attempted to-day to pass a law which would abridge in any respect the pre-union educational rights of the Roman Catholics, as secured to them by the Confederation Act, that Act would be held by the courts to be ultra vires. It would not require an intervention by this Parliament, it would not require any assistance from politicians, it would be outside of the power of the legislature to attempt it, for the rights of the minority were secured, not by this or that political party, but by the constitution itself, and the courts would interpret and enforce the constitution.

THE PROTESTANT MINORITY IN QUEBEC.

The hon. gentleman spent some time in showing, or attempting to show, that the Protestant minority in Quebec held the rights which they enjoy to-day, by some such compact as he says exists with Manitoba, and that, if the rights of the Protestant minority there were interfered with, there would be an uprising of the members of this House to enforce coercion on that province and compel them to keep the compact. The hon. gentleman did not hesitate to impute a dishonest motive to members of this House, in being animated by a desire to keep the compact as far as regards Protestants and annihilate it and repudiate it as regards Catholics. So far as I am concerned, I say that such an accusation is deserving of no other answer than silent contempt. I do not believe there are any hon. members surrounding the hon. gentleman, or sitting on this side of the House, who would be found so base and regardless of honour and of the highest motives which should prompt and control public men as to be willing to give one measure of justice to the Roman Catholics of Manitoba and another measure of justice to the Protestants of Quebec. The Protestants in Quebec to-day hold their educational rights, not by virtue of any post-union legislation. The separate schools which are enjoyed to-day in that province were enjoyed by the Protestants there before confederation ever took place.

An hon. MEMBER. No.

Mr. DAVIES (P.E.I.) All I have to tell the hon. gentleman is, that, if he says "no," he cannot have read the statutes.

Mr. MASSON. The rights enjoyed by the Protestants of Quebec to-day depend entirely on the Act of 1869. Those existing before that time, were condemned by the Protestants as being only rights in name.

Mr. DAVIES (P.E.I.) The only change made with respect to the educational rights of the Protestants of Quebec, was a change made with respect to the Board of Education, giving them a separate board; but the right to separate schools and the existence of separate schools, and the choosing of the books on morals and religion were rights which they acquired and held before confederation, and are not in any way derived from, or attributable to, post-union legislation. I affirm, that the legislature of Quebec has no legal right to interfere in the slightest degree with those rights, any more than the legislature of Ontario has a right to interfere with the pre-union minority rights of Roman Catholics in that province. Sir, it should be so. That was a solemn compact agreed to between the two great provinces of the Dominion. It would be a gross violation, a violation so gross that no honest man would stand up and defend it, if any legislature were to try and break that compact; I do not believe there are to be found in this House, or out of it, a dozen men who would justify such a breach. But why are we anticipating anything of that kind? Has anybody, any public man in the legislature of Quebec, attempted to take away from the Protestants the rights which they enjoy under the Confederation Act? I never heard of it, nor do I believe there are any persons in Quebec who would desire to do it, nor do I believe that there can be found any one who will propose a measure depriving the Roman Catholic minority in Ontario of the rights which the constitutional compact of the union gives them.

An hon. MEMBER. How about Mr. Marter?

Mr. DAVIES (P.E.I.) I do not know about Mr. Marter or Mr. Meredith having desired to do so.

An hon. MEMBER. Mr. Marter admitted it.

PRE-UNION AND POST-UNION RIGHTS ON EDUCATION.

Mr. DAVIES (P.E.I.) I draw a broad distinction between post-union and pre-union rights. Rights given after confederation stand on a very different footing; they can be taken away by the legislature, subject only to the right of appeal to the Government and this Parliament. But what I

want to lay down is this, and it is an incontrovertible proposition, which should be understood in this House and out of it, that the pre-union educational rights of a minority in a province cannot be interfered with by any legislation. Therefore, all the time taken up by the Minister of Finance to show that there was this compact with respect to Manitoba, by which statement he endeavoured to arouse a feeling of danger in the minds of Protestants and Catholics, was time wasted, and was a dangerous exercise of demagogic argument, to which the hon. gentleman should not have descended. I think, if we get into our minds that one fact, we will approach one step nearer to the real question which this House has to determine; and I beg to say just here, that the remarkable agility, the wonderful power displayed by the hon. gentleman this afternoon, in evading the only issue which is before the House, excited my wonder and my admiration. For two hours and a half, he thundered out here, talking about breach of faith, talking about compacts; talking about bills of rights, talking about appeals, talking about what this man said, and that man said, and the other man said, and constantly, and continuously, and persistently, avoiding the only issue which this House is called upon to decide, and upon which the electors we represent will in a short time be called upon to vote.

WHAT WAS PROMISED TO MANITOBA BEFORE THE UNION.

The hon. gentleman (Mr. Foster) spoke of the negotiations which took place in Manitoba, and he quoted certain assurances which he alleged were given to the original inhabitants of Manitoba, which in some way, he desired the House to understand, afforded some argument—how I do not know—for a decision, one way or the other, upon this question. Now, Sir, what were these assurances? The assurances he read, were general assurances that they would be protected in their religious exercises, and privileges, and that their franchises were to be respected. Sir, has there been any attempt to interfere with these? The rights which they possessed before confederation have been decided upon by an authority, which even the Minister of Finance must respect, although he tried to ignore it. I heard a great deal of talk from him this afternoon about the highest judicial tribunal of the Empire, about the independence of that tribunal, about the weight that ought to be attached to any judgment that tribunal gave, and I subscribe to every statement he made in that regard. But, Sir, I ask him: what was the decision of the Privy Council of the Empire with respect to the alleged educational rights which these people held at the time of confederation, and which he tried to lead the House to believe had been invaded? What was the judgment of the Privy Council in that regard? We may agree with that judgment or we may not. The hon. gentleman (Mr. Foster) quotes the opinion of the Hon. Wm. Macdougall as to what he thought was intended by the Act. The hon. gentleman (Mr. Foster) quotes the opinion of somebody else, as to what he thought was intended by the Act, and he quotes the motion made by Mr. Oliver, in the House, at the time the Manitoba Act was going through. What has all that to do with it?

THE FIRST DECISION OF THE PRIVY COUNCIL.

The Privy Council have taken the educational code to be found in the Manitoba Act, and they have on appeal determined, that these alleged religious privileges and exercises and franchises, have not been interfered with, directly or indirectly, by the School Act of 1890. Now, Sir, that has been absolutely determined by the highest tribunal of the Empire, in language which cannot be misunderstood. One would suppose, that the hon. gentleman (Mr. Foster), who professes so much respect and regard for the decision of that tribunal, would have been prepared to accept that judgment. But instead of that, he asked this House to do—what? To go behind that judgment, and to overrule that decision; to decide this question on the ground, that there were rights, although the Privy Council determined there were none; to decide this question on the grounds that there were privileges, although the Privy Council determined that none were invaded; and to decide this question upon the ground that there were guarantees given, although the Privy Council determined that the guarantees did not exist. Sir, I ask the House now, in gauging the weight which is to be attached to any single argument or quotation made by the hon. gentleman (Mr. Foster), as to what was said at the time of confederation, as to what was intended by one man or the other; I ask hon. gentlemen this question: has not the Privy Council of England in the decision they gave on the constitutionality of the Act of 1890, finally, and for ever, determined beyond the possibility of argument, what these rights were? Whatever we may think ourselves, I ask: is it honest for a public man to try and lead this Parliament to legislate on the assumption, that the judgment of the Privy Council was an incorrect and a false judgment?

ALLEGED BILLS OF RIGHTS.

Now, Sir, the hon. gentleman (Mr. Foster) spoke in the same way, about certain bills of right. What did he mean by referring to these bills of rights. Sir, he either meant to lead this House to believe that there was something in these bills of rights guarantee-

ing to the Roman Catholic minority separate schools or educational privileges ; or his references to them were entirely irrelevant. What did he mean ? If there is a bill of rights, pledging the honour of the Crown to these people, if there is a constitutional compact in any bill of rights by which the honour of the Crown is pledged to maintain separate schools or educational privileges, which have been withdrawn ; then, I say, let us have an inquiry and have that examined. I venture to say, Sir, that if on that inquiry, a compact is proved, and if the honour of the Crown is pledged, there will not be many men found on either side of the House who will be prepared to withhold their influence, so as to restore these privileges back to them. And, Sir, why is this quoted now by the hon. gentleman (Mr. Foster) ? Was it quoted before the Privy Council ? Did not the Privy Council finally and for ever determine, that all the rights which the minority had on the question of education in Manitoba, must be found in the educational code of the Manitoba Act, and not outside of it ? Did not they determine, in one or other of the judgments, that even the British North America Act itself has no reference whatever to the educational rights of the people there, and that they have to be determined solely and simply by the Manitoba Act ? Sir, if that is so, why go back and make a general reference to negotiations said to have taken place before confederation, or to a bill of rights said to have been submitted, or to assurances given by one man or the other. If the highest tribunal of the Empire has decided that these must not be looked to, and that you must take your legal and constitutional stand upon the consideration of the words of the legislative enactment contained in the Manitoba Act, what is the use of referring to outside issues.

Sir CHARLES HIBBERT TUPPER. Will the hon. gentleman pardon me for a moment. If I understand the hon. gentleman (Mr. Davies) correctly, he stated, that if the bill of rights No. 4, or any bill of rights on behalf of the people of Manitoba, contained express stipulations for the safeguard of these educational privileges, that then there would be no objection to remedial legislation. Am I right in that ?

Mr. DAVIES (P.E.I.) Certainly not.

Sir CHARLES HIBBERT TUPPER. Would the hon. gentleman explain then, because it occurred to me as an important statement.

Mr. DAVIES (P.E.I.) The hon. gentleman (Sir Charles Hibbert Tupper) will see, that if there was a bill of rights guaranteeing separate schools, we would have no power by remedial legislation to give them. Our power under the remedial legislation clause, is strictly confined, as the hon. gentleman as a lawyer well knows, to post-union rights.

Sir CHARLES HIBBERT TUPPER. I do not wish to interrupt the hon gentleman (Mr. Davies) in that line of his argument at all. It was only as to what I understood him to say in discussing this question of a compact. I understood him to say, that if it were found that a compact had preceded the Manitoba Act, under which there was an agreement, whether in a bill of rights or in some other document, that these rights should be safeguarded ; then there would be no difference between us, I understood him to say.

Mr. DAVIES (P.E.I.) What I said was : If on inqriry it was found there was a bill of rights to which the honour of the Crown was pledged, granting to these people educational privileges, it must enormously influence the voice of public opinion throughout this Dominion in determining that these rights should be guaranteed in their integrity. I know it would very largely influence my opinion.

Sir CHARLES HIBBERT TUPPER. And yet the hon. gentleman (Mr. Davies) opposes the Bill.

Mr. DAVIES (P.E.I.) But, not on this Bill, as I pointed out to the hon. gentleman. Why, it is trifling with the House, and trifling with every lawyer who has ever studied the question, to say that because there might or might not be ante-union pledges or guarantees that would afford any argument whatever, or confer any power whatever on this House to grant remedial legislation under the second subsection of the Act. That comes under another power altogether, to which I will refer directly. But, talking of the influence that such a compact must necessarily have on public opinion, it is perfectly plain to my mind, and I think it will strike many thousands of other minds in the same way, that if you can show that these people were lured, so to speak, into this union with Canada on a bill of rights guaranteeing certain educational privileges to them, and that the credit of the Crown was pledged to that, it must necessarily largely influence public opinion in compelling whatever legislation is necessary for the concession of those rights to them.

Some hon. MEMBERS. Hear, hear.

Mr. DAVIES (P.E.I.) There is no doubt about that. But, Sir, who dares to say that to-day ? Where is the evidence to be found that any such bill of rights exists ? It is denied. It is asserted, perhaps, by some, though I do not know that anybody in this House is prepared to assert it. I saw it asserted in a pamphlet which some one did me the honour of sending me. But I saw it denied in another pamphlet. It did not appear in evidence before the Canadian Privy Council ; it is not in evidence before this House ; and it would be a monstrous thing to ask this House to accept as true what has never yet been proved and has

never yet been investigated. But what I do say is that if any hon. gentleman can show prima facie that such a bill of rights exists, he will have afforded the strongest argument in favour of a thorough investigation into this subject that has yet been presented.

FURTHER PROMISES TO THE MINORITY IN MANITOBA.

The hon. gentleman went on to argue that the Senate of Manitoba had been abolished, but that certain pledges were given that there was to be no oppression of the minority, and that their rights were to be protected. Well, supposing that is so, I do not understand that it has any weight or influence or bearing on the particular question before this House. I do not understand Sir, that the question whether some gentleman in the Senate of Manitoba made a general statement that there was to be no oppression of the minority affords any ground, constitutional or legal, for this Parliament passing a coercion Bill without investigation, and forcing it upon that province.

WHO FIRST BROUGHT THE EDUCATIONAL QUESTION INTO DOMINION POLITICS ?

The hon. gentleman asked who introduced this question into Canadian politics for the first time ? And he pointed to the hon. member for Winnipeg (Mr. Martin), and held him up as a culprit. He told us that this confederation had gone for twenty-five or thirty years, and that heretofore never had such a question as this roused up race and religious passions until the hon. member for Winnipeg had introduced this question in Manitoba. Is that the truth ? Why, Sir, I am old enough to remember when the present Mr. Justice King introduced into the legislature of New Brunswick a national school Bill ; when that measure was said to interfere with minority rights in New Brunswick, just as this Bill of 1890 is said to interfere with minority rights in Manitoba, when that question was dragged into the arena of Dominion politics, and for years constituted a menace to the peace and prosperity of New Brunswick and the rest of the Dominion—and, as I am reminded by one of my hon. friends, it was brought into this House by a member of the present Government. I would like to say, Sir, that fortunately for the peace, prosperity and happiness of the minority in the province of New Brunswick, that hon. gentleman's efforts to force the will of this House upon that province were frustrated. Fortunately for the minority of that province, the people there were allowed to settle this question themselves ; and the good sense, the magnanimity, and the sense of justice and fair-play, which I am proud to say permeates every class of people in this Dominion, impelled the people of New Brunswick to give such a measure of justice and fair-play to the minority there that to-day in that great province not a man can be found to stand up and utter a protest against the national school system of the province. There are those who contend too much has been conceded to the minority, but the minority do not and cannot complain. Sir, what would have been the case had this abominable principle of coercion been introduced then ? What would have been the case if the hon. Minister of Marine (Mr. Costigan) had then been listened to, and his advice taken, and this Parliament had interfered and forced upon that province a separate school system ? Would the minority there be in the full enjoyment of the rights they enjoy to-day ? No, Sir ; instead of peace, he would have brought a sword, and he would have rent that fine and fair province from one end to the other.

DR. GRANT'S OPINION.

The hon. gentleman (Mr. Foster) quoted a sentence from the report of a very eminent educationist in this country, Dr. Grant, as showing, in his opinion, that the present system of education in Manitoba works an injustice to the minority. But, Sir, supposing that to be true, what was Dr. Grant's conclusion ? Did he ask this Parliament to intervene ? Did he justify such a Bill as we have before us ? Did he tell us that that was the remedy for the grievance ? No, Sir ; the strongest supporter of the policy propounded by the leader of the Opposition in this Dominion that I know of is Dr. Grant himself. If the hon. gentleman had quoted the strong argument which Dr. Grant submitted in the public press to show that instead of coercion we should adopt investigation, conciliation and amicable settlement, he would have shown that, so far from that reverend gentleman being an authority in support of the position the Government takes, he is identically the opposite, because he supports the policy of the Opposition.

HAS MANITOBA HAD 5 YEARS TO REDRESS GRIEVANCE.

Then, the hon. gentleman goes on to say that we have had enough dilly-dally—that there have been five years to remedy this evil, and it has not been done. I ask any independent or honourable man in this House, is that a fair or honest statement of the case ? Why, Sir, six years ago this Bill of 1890 was passed. The Government were asked to veto it. They declined. They invited the minority to enter upon litigation to test the validity of the law ; they supplied them with money for that purpose ; it took five years to carry the case through the courts ; and at the end of the five years the highest tribunal in the realm pronounced the Act to be intra vires—perfectly constitutional and in every way defensible. I ask you, is that period of time to be taken

as a period during which the province was to undo the work it did? It may have been right or it may have been wrong. The highest tribunal in the Empire has declared that so far as the Act is concerned, it is intra vires and perfectly proper, and does not interfere with the minority's rights.

Mr. OUIMET. Not proper, but legal.

Mr. DAVIES (P.E.I.) Well, before I am through I will read the language they used. I say that it did not interfere with the minority's rights, because they still have the remedy which the constitution allows them, of appealing to the Privy Council. But while this question was in the courts, and while at the expiration of the litigation Manitoba was declared to be in the right, it is a monstrous argument to say that Manitoba has for five years persistently refused to do right. Sir, I say that until the second judgment of the Privy Council was given in the month of February, 1895, the province of Manitoba cannot be said to have been in the wrong for a single instant. She had the judgment of the highest court in her favour. You may or I may think that she acted harshly or wrongly, but she has been declared by the highest court of the land to have acted constitutionally; and to condemn her for not having repealed or amended the very Act which the courts said she was right in passing, is to take a position which certainly does not commend itself to my judgment at least.

MR. LAURIER'S ADVICE AND POLICY.

Then the hon. gentleman wound up with saying that the Liberal party is responsible. Sir, the Liberal party and the Liberal leader, from the very first time this question entered into the arena of party politics, gave the same counsel and advice that we give now. My hon. friend (Mr. Laurier) counselled investigation and an amicable settlement—a settlement by means of the provincial authority—as the only possible and real settlement which could give the minority the privileges they believed they ought to have. And that proposition which he made, when the question was first brought up, is the proposition he so forcibly and clearly enunciated on Tuesday last, and which, if the majority of the Dominion back him up by their votes, he will be prepared to carry out when he comes into power.

But the hon. gentleman says that the House is divided into two or three classes. He says that the Government are remedialists and propose to apply the remedy now. And he says that the Opposition propose to apply the remedy at some future time. They are remdialists, too, he declares, but they do not propose to remedy the grievance now. Well, what is involved? He says there is no difference at all in principle. I say there is a very marked difference. I say that the policy of introducing and carrying remedial legislation now, under existing circumstances, involves blind legislation to be followed by chaos—to be followed by bitter racial and religious feeling, religious and racial rancor, which will rend Manitoba asunder and spread all over the Dominion. But the other policy involves intelligent inquiry, the ascertainment of the real facts, the ascertainment whether there is substantial injury or not, and it involves further that when it is found that substantial injury does exist, it shall be followed by a remedial settlement and a measure of justice to the minority, which generous measure of justice will be administered by the local authorities themselves. That is the answer I give to the hon. gentleman's argument.

THE REAL QUESTION TO DECIDE.

Now, let me for a few moments bring the attention of this House to what I humbly consider the real question which Parliament has to decide. The question, as I understand it, is whether it is in the interests of the minority of Manitoba, whether it is in the interests of the province of Manitoba itself, whether it is in the interests of the whole Dominion, that we should legislate to impose, as the hon. gentleman says he desires to do, state-aided separate schools upon Manitoba. That is the real issue before this House to-day. The other issue involved is whether the hon. gentleman is honestly carrying out what he says is his desire. There are gentlemen on both sides who challenge issue with him upon both questions, who say that it is not in the interests of the minority or of Manitoba or of the Dominion at large, that at the present stage of this question any such Bill should be introduced, and who say further that if such Bill be carried as being in their interests, it will be a political fraud, a piece of parliamentary jugglery, a delusion and a snare.

POWER TO PASS THE LAW.

My hon. friend the Minister of Justice spent an hour the other day, in a speech to which I can take no exception whatever, as to its matter or manner, in proving that there exists in this Parliament a power to legislate upon this question. Where is the man inside of Parliament, where is the lawyer inside or outside of Parliament who ever questioned that power? This is not a question of our power to act, but is entirely a question of policy and statesmanship to be decided, as the statute says, looking at all the circumstances of the case. Did the counsel of the Manitoba Government, before the Privy Council here, challenge the right of the Privy Council to make a remedial order? Not at all. He admitted its undoubted power to do it. He only questioned the policy, the prudence, the statesmanship of such action. He never denied

the power. When that gentleman, himself the leader of the irreconcilables, headed a public meeting in Toronto and moved a resolution some years ago, in which he denounced the policy of interference, in that very resolution, he expressly admitted the power in cases of urgent necessity.

Sir CHARLES HIBBERT TUPPER. Who is the leader of the irreconcilables?

Mr. DAVIES (P.E.I.) I suppose the hon. member for North Simcoe (Mr. McCarthy) would be so termed. The language he used at that time was that where there was a flagrant abuse of provincial power, the right of the Privy Council and this Parliament to interfere was undoubted. Then we have the province of Manitoba itself, did it question the power? Why, in these remarkably able minutes of Council, which were forwarded from Manitoba, the power of this Government to interfere is admitted expressly in cases of urgent necessity. I have not heard any lawyer who valued his reputation, any lawyer of standing, or any constitutional authority, ever express the doubt that there is a power constitutionally vested in the Government of Canada to hear an appeal, and that after they have heard and allowed the appeal, there is power on the part of this Parliament to intervene and enact, a remedial order, if it chooses.

SIR CHARLES TUPPER'S LAW.

That being the case, we are getting to a narrower issue; and just at this stage, I desire to challenge, right upon the very threshold, the law laid down by the hon. Secretary of State (Sir Charles Tupper), when he moved the second reading of this Bill, as the controlling law was which should guide us in this matter. The hon. gentleman then laid down certain propositions which, if they were correct in whole or in part, would fully justify, if not compel, this House to proceed upon the course he has invited us to take. The hon. gentleman, after giving a history of confederation and reading very largely from the judgment of the Privy Council, wound up by declaring what, according to his view, was the law; and as he moved the second reading, upon the statement he then made the policy of carrying this Bill must largely depend. I will trouble the House while I read a quotation from his remarks to show why that hon. gentleman at least asked the House to adopt the course which he did when he moved the second reading:

> I think it would be impossible to find any terms in the English language that would more thoroughly establish the position that the right exclusively of the province of Quebec, or the province of Ontario, or the province of Manitoba to legislate in reference to education is not confined to the case in which they have not taken away any of the rights enjoyed by any one of these provinces at the time they entered confederation; that is to say, that if it can be shown that any right enjoyed by any province at the time it entered confederation has been infringed upon, if it be shown that the privileges that were enjoyed under that right, whether by Roman Catholics or Protestants, have been interfered with and removed, the moment that took place, under the Imperial Act of Confederation, under the law as it stands upon the statute-book, the right is transferred 'ipso facto' from the local legislature, because the local legislature hold that exclusive right, subject to the fact that they shall not invade the privileges of the minority, to the Parliament of the Dominion. And holding that under these circumstances, the moment it can be shown that the provincial legislature have invaded that right and have used the power entrusted to them contrary to the spirit of the Act of union, the Imperial Act of 1867, and to the law under which Manitoba came into the confederation—the moment it can be shown that the rights and privileges enjoyed have been infringed, that moment their power to legislate exclusively in regard to the question ceases and is transferred 'ipso facto' to the Parliament of the Dominon of Canada. I would not say that I hold that to be an incontrovertible position if I were not fortified in it by the highest authority in the British Empire, the Judicial Committee of the Privy Council.

I did not conceive it to be possible to embrace within so few words so much bad law as the hon. gentleman has given us here. It is absolutely the reverse of what the law is. The idea that because a provincial legislature infringes upon a right which post-union legislation has given to a minority, that moment the exclusive power of the province in respect to education is transferred to this Parliament, is so monstrous an absurdity, so ridiculous a travesty, of what the law is that I am not surprised that the hon. gentleman who held it should reach the conclusion he did, and should urge this House to pass this Bill. Why, Sir, if that were the law, if Manitoba had lost its right to legislate by reason of infringing the rights of the minority, and that right was, ipso facto, transferred to this Parliament, of course we should legislate. We should do something at once. But, Sir, that is not the law. I will ask the hon. gentleman's attention for one moment to the law as laid down by the Privy Council of England upon that point. The Privy Council says:

> Subsection 3 reserved certain limited powers to the Dominion Parliament in the event of the provincial legislature failing to comply with the requirements of the subsection.

That contains the whole of it in a nutshell. As for there being any transfer of power to this Parliament because the provincial parliament interferes with the right of a minority, the thing is too ridiculous for argument. Sir, the true rule is this—that while a latent power exists in Parliament to legislate on the subject of legislation, to carry out a remedial order adopted by the Privy Council on an appeal to them by an aggrieved minority, it ought only to be

resorted to in a case of urgent necessity after such case has been fairly established, and then only in the last resort and after the provincial government have declined to act in the matter. But, Sir, when the provincial government has refused to act, and full investigation has been held, and a case of urgent necessity fully made out, then, Sir, we are to exercise our full parliamentary discretion, and legislate just so far as the circumstances of the case require.

THE DECISION OF THE PRIVY COUNCIL IN 1892.

Now, Sir, let us try to get a fair idea of how this question really stands at this time. What is the first proposition we start with? We start with the proposition I referred to a moment ago, that the Act of 1890 was finally determined by the Judicial Committee to be strictly constitutional and intra vires. As this matter seems to be called in question by the general trend of the argument of the hon. Finance Minister, and others who have followed on that side, let me read for a moment, because I think it is right that it should go upon record again, what the Privy Council of England did say in regard to the Act of 1890. After giving the main provisions, they go on to say:

Such being the main provisions of the Public Schools Act, 1890, their lordships have to determine whether that Act prejudicially affects any right or privilege with respect to denominational schools which any class of persons had by law or practice in the province at the union. Notwithstanding the Public Schools Act, 1890, Roman Catholics and members of every other religious body in Manitoba are free to establish schools throughout the province; they are free to maintain their schools by school fees or voluntary subscriptions; they are free to conduct their schools according to their own religious tenets without molestation or interference. No child is compelled to attend a public school. No special advantage other than the advantage of a free education in schools conducted under public management is held out to those who do attend. But then it is said that it is impossible for Roman Catholics, or for members of the Church of England (if their views are correctly represented by the Bishop of Rupert's Land, who has given evidence in Logan's case), to send their children to public schools where the education is not superintended and directed by the authorities of their church, and that, therefore, Roman Catholics and members of the Church of England who are taxed for public schools, and at the same time feel themselves compelled to support their own schools, are in a less favourable position than those who can take an advantage of the free education provided by the Act of 1890. That may be so. But what right or privilege is violated or prejudicially affected by the law. It is not the law that is in fault; it is owing to religious convictions, which everybody must respect, and to the teaching of their church, that Roman Catholics and the members of the Church of England find themselves unable to partake of advantages which the law offers to all alike. Their lordships are sensible of the weight which must attach to the unanimous decision of the Supreme Court. They have anxiously considered the able and elaborate judgments by which that decision has been supported. But they are unable to agree with the opinion which the learned judges of the Supreme Court have expressed as to the rights and privileges of Roman Catholics in Manitoba at the time of the union. They doubt whether it is permissible to refer to the course of legislation between 1871 and 1890, as a means of throwing light on the previous practice or on the construction of the saving clause in the Manitoba Act. They cannot assent to the view, which seems to be indicated by one of the members of the Supreme Court, that public schools under the Act of 1890 are in reality Protestant schools. The legislature has declared in so many words that the public schools shall be entirely unsectarian, and that principle is carried out throughout the Act. With the policy of the Act of 1890 their lordships are not concerned. But they cannot help observing that, if the views of the respondents were to prevail, it would be extremely difficult for the provincial legislature, which has been entrusted with the exclusive power of making laws relating to education, to provide for the educational want of the more sparsely inhabited districts of a country almost as large as Great Britain, and that the powers of the legislature, which on the face of the Act appears large, would be limited to the useful but somewhat humble office of making regulations for the sanitary conditions of schoolhouses, imposing rates for the support of denominational schools, enforcing the compulsory attendance of scholars, and matters of that sort.

That was the first judgment given in 1892. I want to establish the proposition, if I can, that the Privy Council have set at rest once and for all the constitutionality of the Act of 1890, have declared that it was perfectly within the powers of the legislature, and that its passing did not violate any privilege or right which the minority had before the union. So that we will start with that proposition as incontestably proved. Then, Mr. Speaker, if that is so, what is the use of going behind that judgment to try and show that privileges were given to them, when the Privy Council said they were not? Surely we can start from that basis. Now, I may have held, and there are many other gentlemen who did hold, views entirely opposed to the Privy Council. They thought, I thought myself, that the minority had certain privileges and rights which the Act of 1890 deprived them of; but what is the use of my clinging to that when the highest law by which we are bound says they have not, and says that the province was perfectly within its rights, says, therefore, that no pre-union rights or privileges existed, that is affected, directly or indirectly, by the law of 1890?

THE SECOND DECISION OF THE PRIVY COUNCIL IN 1895.

But while that is true, it is equally true, and decided by the same judicial body in 1895, that the legislation of 1890, by interfering with post-union privileges granted to the minority by the legislature of Manitoba, created a grievance which gave the aggrieved minority a right of appeal.

Sir CHARLES HIBBERT TUPPER. Do I understand the hon. gentleman to say, with reference to the Barrett case, that he was of a contrary opinion to that decision before the decision was delivered?

Mr. DAVIES (P.E.I.) I said that was my impression that the decision was rather a surprise to me. I have no hesitation in saying that at all. I want to deal with this question frankly and fairly. But what I say is this, that while I find myself bound by the decision of the Judicial Committee in 1895, I also find myself bound by their solemn decision of 1892. It would not be honest for me, and I humbly submit that it is not honest for hon. gentlemen opposite, to try and create the impression in this House or out of it, that there exists a pre-union right on the part of the minority, which has in any way been interfered with by the Act of 1890. I say it is settled that there is not such right. The only right they have is the right of appeal in case privileges granted to them by the legislature of Manitoba after the union, have been interfered with. Now, I want to come down to this point—what was the real question submitted and determined by the Privy Council of 1895? And what were the petitions praying for an appeal, and what grievances did they say they suffered? I turn to the blue-book upon this subject, at page 198, where I find the substance of these petitions summarized.

Mr. DAVIN. Before my hon. friend goes away from that point, which is a very interesting one from whatever point of view this question is looked at, I should like to have this cleared up. Is it held that if a member of Parliament comes to the conclusion, or if a Parliament comes to the conclusion, that the Act of 1890 was ultra vires until that decision was given, is the Parliament estopped as a court of justice would be estopped, from considering those facts that would establish to one's judgment that it was ultra vires?

Mr. DAVIES (P.E.I.) Most assuredly, I think Parliament is estopped, for this reason, that the Manitoba Act of 1890 has become part of the constitution of this country, and when that constitution is interpreted by the highest tribunal of the Empire, this Parliament, and every loyal man in it, is bound by the decision. I may regret it, I may have hoped differently, I may have thought differently, I may have shared the views of some of the judges of the Supreme Court here. I did share them, but I am bound to argue this question as a lawyer, as a politician, and as a member of this House, on the lines of the constitution, and am bound by the constitution. When you tell me I am bound by the decision of 1895, I say I am, but I am equally bound by the decision of 1892. Now, I am going to call the attention of the House to what this decision of 1895 was, because, upon that point, a great deal is going to depend. What was the decision given by the Privy Council in 1895? That depends very much upon the petitions prerented by the minority, praying for an appeal, and on the questions referred by the Canadian Privy Council to the court for their decision.

Mr. McNEILL. Would the hon. gentleman allow me to ask him a question? Do I understand his argument to be that this House could not constitute itself a court of appeal to review the decision of the Judicial Committee of the Privy Council?

Mr. DAVIES (P.E.I.) The hon. gentleman has expressed my argument very neatly and very well. If I am stating correctly what the decision of the Privy Council was in 1892. If the language I have read is not capable of two constructions, if they did, in clear and unmistakable language, say that the Act of 1890 was constitutional and intra vires of the legislature of Manitoba, and that there were no rights and privileges whatever of a pre-union character which were interfered with, then I say every member of this Parliament, and the Parliament as a whole, is bound by that judgment; I go further, and I say it is politically dishonest to ask Parliament to try to go behind it. Now, Sir, let us see what the other decision was.

THE PETITIONS FOR AN APPEAL.

We have certain memorials presented to the Canadian Privy Council asking that they hear an appeal against that Act on the ground that certain post-union privileges were conceded to the Roman Catholics, and had been interfered with. What is the substance of those petitions? They are summarized on page 198 of the blue-book, as follows:—

1. The statutes complained of had deprived the Roman Catholic minority of the rights or privileges of a separate condition as regards education and of organizing their schools under the system of public education in the province which they had previously enjoyed by the Education Acts passed since the union.

2. That their schools had been merged with those of Protestant denominations.

3. That they are required to contribute through taxation to the support of schools which are called public schools, but are in substance a continuation of the old Protestant schools.

4. That the religious exercises in the public schools are not acceptable to them.

Now, Sir, that is the substance of the petitions which were presented to the Canadian Privy Council praying for an appeal, and they contain allegations of a very grave and serious character; they contain allegations which, if true, went to show that a grievous wrong had been committed upon the Roman Catholic minority, that there was a case of urgent necessity requiring the intervention of the Privy Council of Canada, and of this Parliament. Now, let us see what was done. Upon the very thresh-

old of the inquiry on the appeal, there arose the question : have we got the power to hear it ? I want to let the House understand that the Privy Council of Canada did not at first enter upon the consideration of the merits of the appeal at all. They were met at the threshold with the objection that they had no right to hear it, and that question whether they had a right to hear it was the question which was remitted to the court. How was it remitted to the court ? It was remitted to the court in the form of several questions which the court was asked to answer, and I will have to trouble the House, in order to make my argument intelligible, with reading those questions, or a majority of them :

QUESTIONS SUBMITTED TO THE SUPREME COURT AND PRIVY COUNCIL.

1. Is the appeal referred to in the said memorials and petitions, and asserted thereby, such an appeal as is admissible by subsection 3 of section 93 of the British North America Act, 1867, or by subsection 2 of section 22 of the Manitoba Act, 33 Victoria (1870), Chap. 3, Canada ?

The answer is : Yes, it is by virtue of the Manitoba Act. Mind you, that is the appeal referred to in said memorials and petitions. The second question is :

Are the grounds set forth in the petitions and memorials such as may be the subject of appeal under the authority of the subsections above referred to, or either of them ?

The answer is : Yes, under the last Manitoba Act. Sections 3 and 4 do not refer to it. Question 5 says :

5. Has His Excellency the Governor General in Council power to make the declarations or remedial orders which are asked for in the said memorials and petitions, assuming the material facts to be as stated therein, or has His Excellency the Governor General in Council any other jurisdiction in the premises ?

The answer is yes. I have given the answers to the House in substance, and I hold in my hand the reasons rendered by the Judicial Committee of the Privy Council for their answers. The answers in order to be intelligible must be read in the light of the questions which were asked. The case submitted did not involve, nor did it justify any inquiry as to the truthfulness of the facts. The Privy Council were asked to assume the facts stated in the petition to be true, and assuming them to be true, they were asked whether there was an appeal allowable. They decided that the appeal was admissible under subsection 2 of section 22 of the Manitoba Act, 1890, and not under the section of the British North America Act which did not apply. At page 272 of their judgment they state the reasons for giving these answers, as follows :—

The terms on which Manitoba was to become a province of the Dominion were matters of negotiation between representatives of the inhabitants of Manitoba and of the Dominion Government. The terms agreed upon, so far as education was concerned, must be taken to be embodied in the 22nd section of the Act of 1870. Their lordships do no think that anything is to be gained by the inquiry how far the provisions of this section placed the province of Manitoba in a different position from the provinces, or whether it was one more or less advantageous. There can be no presumption as to the extent to which a variation was intended. This can only be determined by construing the words according to their natural signification.

They find that when you want to ascertain what the rights and privileges of the minority of Manitoba, or what the rights and privileges of the majority are, or what the powers of that province are to legislate on the subject of education, you must go to the 22nd section of the Manitoba Act of 1870, and not to the British North America Act or any other source. That being the case, what did they next decide ? In finding out, they said, what was the meaning of the statute, you must confine yourself to the meaning of the words of the statute itself. You are not permitted to go to the statements of what one or another legislator thought might be its meaning when the Bill was being enacted. We have had hon. gentlemen quoted and their opinions cited as to what they thought was intended when the Bill was submitted to the legislature. Every constitutional lawyer will tell you, Mr. Speaker, how absurd that view is. The Privy Council spoke as follows :—

It may be that those who were acting on behalf of the Roman Catholic community in Manitoba, and those who either framed or assented to the wording of that enactment were under the impression that its scope was wider, and that it afforded protection greater than their lordships held to be the case. But such considerations cannot properly influence the judgment of those who have judicially to interpret a statute. The question is, not what may be supposed to have been intended, but what has been said.

WHAT PRIVY COUNCIL DID DECIDE.

And so we find two things. We find the highest court in the Empire determined that we must confine ourselves exclusively to the Manitoba Act of 1870, and to the very words of the 22nd section of that Act ; and yet it is thought proper to endeavour to interpret it by the hasty expressions or ill-considered opinions of politicians or statesmen in the House when the Bill was going through. If you claim to be bound by the constitution, to be acting here simply in pursuance of a constitutional duty, are you justified in appealing to arguments directly at variance with the decision of the Privy Council, and although that body states that you shall not go outside the Manitoba Act or outside its language to find out what it means, are you justified in going outside of the words and relying upon the opinions of individual legislators? The Privy Council goes on to determine next that subsection 2 of that statute is a substantive enactment by itself, and

that is a most important consideration. I speak as a lawyer, a very humble one I admit, and I say that I shared entirely the view of this case which was enunciated with such great ability by Sir Henry Strong, Chief Justice of the Supreme Court of Canada. I did not think that subsection 2 of the Manitoba Act was a substantive section, but I thought it was ancillary to section 1, and was intended to carry it out. I thought section 1 conferred privileges and rights on the minority in Manitoba. On both those points it appears I was wrong; but I am bound to bow to the decision of the Privy Council. At page 26, the Privy Council say:

> The question then arises, does the subsection extend the rights and privileges acquired by legislation subsequent to the union? It extends in terms to "any" right or privilege of the minority affected by an Act passed by the legislature, and would therefore seem to embrace all rights and privileges existing at the time when such Act was passed. Their lordships see no justification for putting a limitation on language thus unlimited.

So we have arrived at this stage. In the decision of the Privy Council subsection 2 does cover cases where rights and privileges have been given by the legislature of Manitoba after the union to the minority in that province. That being so, the sole question to be determined is, has a right or privilege been affected? In order to give a fair and proper meaning to the judgment the House will pardon me if I make another quotation to show that in the opinion of the Privy Council these rights were affected. At page 284, they say:

> The sole question to be determined is whether a right or privilege which the Roman Catholic minority previously enjoyed has been affected by the legislation of 1890. Their lordships are unable to see how this question can receive any but an affirmative answer.

On page 285, they say:

> For the reasons which have been given their lordships are of opinion that the second subsection of section 22 of the Manitoba Act is the governing enactment, and that the appeal to the Governor General in Council was admissible by virtue of that enactment, on the ground set forth in the memorials and petitions, inasmuch as the Acts of 1890 affected rights or privileges of the Roman Catholic minority in relation to education within the meaning of that subsection.
>
> Their lordships have decided that the Governor General in Council has jurisdiction, and that the appeal is well founded, but the particular course to be pursued must be determined by the authorities to whom it has been committed by the statute. It is not for this tribunal to intimate the precise steps to be taken. Their general character is sufficiently defined by the 3rd subsection of section 22 of the Manitoba Act.
>
> It is certainly not essential that the statutes repealed by the Act of 1890 should be re-enacted, or that the precise provisions of these statutes should again be made law. The system of education embodied in the Acts of 1890 no doubt commends itself to, and adequately supplies the wants of the great majority of the inhabitants of the province. All legitimate grounds of complaint would be removed if that system were supplemented by provisions which would remove the grievance upon which the appeal is founded, and were modified so far as might be necessary to give effect to these provisions.

I have read all that part of the judgment, because it is the part always relied upon, in support of the position which the Government took, and for the purpose of justifying their action to-day. Their lordships say: Assuming the facts stated in the petition to be true. Assuming it to be true, that the Roman Catholic minority have been deprived of rights and privileges as regards education, and of organizing their schools. Assuming it to be true, that their schools have been merged with those of Protestant denominations; assuming it to be true, that they are required to contribute their taxation to the schools which are called public schools, but are, in substance, Protestant schools; and, assuming it to be true, that the religious exercises in these schools are not acceptable to them. Assuming all these things to be true, then, their lordships say: An appeal lies to the Governor General in Council of Canada against these grievances.

WHAT WAS THE DUTY OF CANADIAN GOVERNMENT.

Now, Sir, if that is so, what was the clear, palpable, plain duty of the court to which the appeal was to be made? The order comes back here from the English Privy Council, in answer to the questions put to them: You have the power to hear the appeal of the minority. The Privy Council determined no more, and the Privy Council could determine no more. There was nothing else referred to them. It is perfectly true, that some dicta were given by the Lord Chancellor, as to what, in his opinion might be a good course to adopt. But, Sir, I do not think there is a man in this House who will contend, that these dicta form any part of the answers to the questions which they were asked to answer. The dicta of the Lord Chancellor, as to what policy we are to adopt, should not control any man in this legislature, nor any man of the Canadian Privy Council. The policy of this country must be determined by those to whom is entrusted the responsibility for carrying on the government of the country. The policy for the legislation we may enact must be determined by us, and, while I am prepared for one, to give implicit obedience to the judgment of the Privy Council upon questions of law which are properly before them, and, while in this case I am prepared to give, and think both Opposition and Government should give, absolute and implicit obedience to that judgment of the Privy Council, so far as it was a judgment, so far as it was an answer to the questions put by the court, I decline to be controlled or

guided by a passing opinion, as to what policy we should adopt on a matter, not of law, but on a matter entirely of policy, which should be determined by the people, by the representatives of the people, and by the Government of the country, who are entrusted with the responsibility.

THE MANNER IN WHICH APPEAL WAS HEARD.

Now, Sir, the power to hear the appeal being determined, what came before this Government? They had to determine the time to hear it, the manner in which to hear it, and whether it was to be a political or judicial hearing. Sir, what should have been done by this Government? I say here, that the initial wrong, the wrong which it is almost too late to remedy was committed by the Government of this country towards the minority of Manitoba, when, with an indecent haste, which I cannot sufficiently condemn, they passed that drastic remedial order, which they are now trying to make the basis of legislation in this House. I appeal to the members of this House, as men of common sense; and I ask: What was the first thing this Government should have done. They admit, that this matter of education was exclusively within the jurisdiction of the province of Manitoba. They had an appeal presented to them on the ground that an injustice was done to the minority. They did not know whether they had the power to hear the appeal or not. They referred the question, and the highest court of the Empire told them they had that power, and that being decided, one would have supposed, that the very first action they would have taken, would have been to have passed on by a despatch, the judgment and the answer of the Privy Council of England, and said to the province of Manitoba: Now, the doubt which has existed as to whether we have the right to hear and determine this appeal, has been solved by the highest court of the Empire. If you do not take it up and deal with it, as you have the power and the duty to do, then, we must proceed, in justice to those who have appealed to us to hear their appeal.

THE INITIAL WRONG DONE.

Sir, if that step had been taken; if no coercion had been attempted in the first place; if common sense had been used, if the smallest ounce of conciliation had prompted the men who were then controlling Dominion affairs, there would have been no trouble in the Dominion of Canada to-day. The initial wrong, which, I say, it is almost impossible to overcome, was committed against the minority in Manitoba, when, with indecent haste, which, I say, I cannot too severely reprehend, instead of passing on by an amicable despatch the judgment of the Privy Council, calling the attention of the Manitoba government to it, and inviting them to remedy the wrong of which the minority complained, they took the people of Manitoba by the throat, and said: We will now proceed to hear this appeal, without giving you even time to prepare yourself. The indecent haste with which that appeal was pushed forward, while the legislature was sitting, and before the official report of the judgment was received in this country at all, was not creditable to a court which said they were sitting as a judicial body. Before, I say, the official report of the Judicial Committee of the Privy Council was received in this country at all, and simply on a telegraphic report which they had of what the Privy Council had decided, they hailed the province of Manitoba before them, as if the province of Manitoba was a culprit, and they said: Although your Premier is sick, and your Attorney General is engaged, we will not give you time for these gentlemen to prepare, but we will force you to answer and defend yourselves without any delay. I say, Sir, that it was an indecent haste, which could only have been prompted by a political motive. It is as plain to my mind as the sun in the heavens, when it is shining, that the hon. gentlemen opposite, at that time, intended, not to give relief to the Manitoba minority, but to pass formally a remedial order, and then go to the country and invite the votes of the Roman Catholics of the whole Dominion on the ground that they were seeking to do justice. They were going to snatch an unrighteous verdict, and to depend upon subsequent events to carry out their pledge, when they got into power. That was the policy. They contended that they were sitting judicially. On the preliminary question of their right to hear the appeal at all they might have been sitting judicially; but when they came down to the question of fact, they were sitting as a political body, determining on the policy they should adopt. In the language of Lord Watson and Lord Macnaghten, and by the admission of Mr. Ewart and Mr. Blake, they were not sitting as a judicial body at all, but simply and solely as a political body, acting on their political discretion, and doing what in their political judgment was best in the interests of the country at large. If this is doubted, turn to the controversy that took place before the Privy Council. During the argument on the appeal, Lord Watson interposed to say:

> I apprehend that the appeal to the Governor is an appeal to the Governor's discretion. It is a political administrative appeal, and not a judicial appeal in any proper sense of the term, and in the same way after he has decided the same latitude of discretion is given to the Dominion Parliament. They may legislate or not as they think fit.

You will find the Lord Chancellor asking Mr. Blake this question:

The question seems to me to be this: If you are right in saying that the abolition of a system of denominational education, which was created by a post-union legislation is within the 2nd section of the Manitoba Act and the 3rd subsection of the other if it apply, then you say there is a case for the jurisdiction of the Governor General, and that is all we have to decide.

And Mr. Blake replies:

That is all your lordships have to decide. What remedy he shall purpose to apply is quite a different thing.

Mr. Ewart says:

Before closing I would like to say a word or two as to what we are seeking. As it has already been remarked, we are not asking for any declaration as to the extent of the relief to be given by the Governor General. We merely ask that it should be held that he has jurisdiction to hear our prayer, and to grant us some relief if he thinks proper to do so.

And Lord Watson says:

The power given of appeal to the Government, and upon request of the Governor to the legislature of Canada, seems to be wholly discretionary in both.

Mr. Ewart—No doubt.

Lord Watson—Both in the Governor and in the legislature.

Mr. Ewart—Yes.

Sir, these dicta and admissions, one and all, together show what? That the Judicial Committee of the Privy Council were determining a merely legal point; after they had determined that point and referred the question back again to the Privy Council of Canada, that Privy Council had to take it up as a political administrative appeal, and decide what they would do. Now, Sir, what should they have done? Surely, after having sent that decision to the Manitoba government, they should have waited a reasonable time to see whether the Manitoba government would do right in the premises. They did not do so. On the contrary, they took the Manitoba government by the throat. If the Manitoba government did not act, then what should they have done? They should have negotiated with the Manitoba government; and if their negotiations were ineffective, they should have proceeded with the appeal. But if they determined to proceed with the appeal, how should they have proceeded with it? There was only one way to proceed. Certain allegations were made in the petitions on which the appeal was made. Were those allegations true? That was the first thing for the Privy Council of Canada to inquire. Did they inquire? The judgment of the Privy Council of Great Britain was given on the assumption that those allegations were true. The matter was referred to the Privy Council of Canada to find out whether they were true or not, and, if they were true, to apply the remedy.

NO INVESTIGATION MADE INTO FACTS.

I ask, was any investigation made? As a fact, not a scintilla of evidence was given of the truth of those allegations, and the affidavits submitted by Mr. Ewart in support of his contention were one and all withdrawn. Now, Sir, what were those affidavits? I refer to them because the allegations made in them have been the subject of argument, and have been appealed to by hon. gentlemen in this House in support of their arguments. Why, my hon. friend from St. John, a lawyer of high standing in his own province, did not scruple to refer to statements made in those affidavits as facts which had influenced his mind on this question.

Mr. McLEOD. Excuse me. I did not put it on that ground at all.

Mr. DAVIES (P.E.I.) I do not say that the hon. gentleman referred to the affidavits themselves, but he referred to the facts which were supposed to be proved in them as matters which influenced his mind. Now, Sir, what are the allegations contained in those affidavits? 1st. That the Manitoba bill of rights contained a special clause guaranteeing the Roman Catholics separate schools, and the distribution of the school money amongst the different denominations according to population. 2nd. Gross breach of faith on the part of the Greenway government, in attaining power on solemn pledges that they would not interfere with Roman Catholic separate schools as they existed in 1888, and in afterwards repudiating pledges and abolishing schools. 3rd. Confiscation of a reserve fund belonging to the Roman Catholic separate school board. When Mr. Ewart came to present his case before the Privy Council, he submitted to them five or six contentions as reasons why they should grant the appeal and make the remedial order. He addressed a solemn argument to them in favour of separate schools. He referred to those affidavits in proof of his assertion that assurances had been given and promises had been made of the nature of those to which I have just referred. He contended that apart from agreements and promises relief should be given on the merits. He argued, finally, that the schools were sectarian and Protestant, adding:

I feel certain that the settled belief of the people of Canada that such liberty (that is, separate state-aided schools) ought to be accorded to Roman Catholics everywhere throughout the Dominion.

I am not concerned just now with the latter part of his argument; but I want to ask—with respect to the arguments advanced on the serious and grave statements made in the affidavits submitted, which, if true, would undoubtedly influence largely the minds of the Privy Council—what was the result? After he had submitted his argument, the counsel for the other side said he was prepared to rebut and contradict everyone of those statements in toto; and then

Mr. Ewart rose, and rather than have them contradicted, or have time given for contradictions to be obtained, he absolutely withdrew them from the court altogether.

AFFIDAVITS WITHDRAWN—ATTEMPT TO WRONGLY INFLUENCE OPINION.

And here we are sitting in Parliament legislating, and those affidavits are submitted to us as part of the record; and there are hundreds of men in this country, and numbers of men in this House, who have read that record and those affidavits, and have had their minds largely prejudiced by the statements contained in them. Why, Sir, the Minister of Justice (Mr. Dickey) apologized in this House last session for their having allowed these affidavits to appear in the blue-book, saying that it was a mistake of his own; and his apology was accepted at the time, because it was put forward in a manly and honest way. But what do we find this year? We find the blue-book re-published, with the error which was pointed out last year repeated. I find in this blue-book, printed in 1896, this very year, circulated among the members of this House, and sent by the thousand among our constituents, these damaging statements, every one of which was withdrawn, and not one of which formed part of the record before the court. These are circulated throughout this country for the purpose of wrongly influencing public opinion. I cannot conceive of a more disgraceful attempt to mould public opinion in a false direction than is made by means of this trick, for it is nothing more or less. If the same thing took place in a lower court, and you went before a court of appeal and proved it, the man guilty of such conduct would receive severe condemnation at the hands of the court. And how is it here to-day? The hon. gentleman knows that men's minds are being influenced largely by those statements, that men are found in this House now to stand up and make use of them and say openly that their minds are influenced by them, when, as a matter of fact the statements are denied to be true, were as a fact withdrawn, and the counsel for Manitoba declared that if time had been given them they would have refuted every one of them.

ARE THE SCHOOLS PROTESTANT.

Now, the question comes up are these schools sectarian or Protestant schools as alleged? I do not know, I cannot tell, I have never been in Manitoba. It is one thing to point out to me what is the school system, as contained in the four walls of a statute, but that gives me no idea of how that school system is administered. I do not want to know alone what the law says, but how it is practically administered; and if there is one thing that requires examination more than any other before this House attempts to legislate, it is the facts with regard to the practical working of the schools, under the old system, between 1870 and 1890, and their practical working under the system established in 1890, from 1890 to 1895. Unless that practical working is inquired into and ascertained, it is absolutely impossible for this House to come to an honest and just conclusion as to how far we should interfere to remedy the alleged injustice. The question is not whether the schools are non-sectarian or Protestant, but whether they should be imposed by a central power upon the province or voluntarily given by the province itself. I am not going to discuss whether a separate school system is the best or not. That is a matter for the province to determine. If the province determines that a separate school system is the best I certainly am not going to interfere. It is none of my business. It is a matter that has been relegated to the province; and unless the province interferes with a right guaranteed by the constitution, and I am called upon to apply a remedy, I have no right to interfere at all.

REASONS FOR AN INVESTIGATION—PRACTICAL WORKING OF THE ACT.

Now, I repeat that no evidence was taken upon the merits. Mr. Ewart challenged the judgment of the Canadian Privy Council on the merits of his petition, but not a scintilla of evidence was given to show what the merits were. How am I, how is any member of this House, coming from any part of Canada, to determine upon those merits without investigation? Some hon. gentlemen say we have the Acts of 1870 and 1888, and we have the Act of 1890, and that is enough for us. Sir, it is not enough. It does not touch the fringe of the question, because the question is: what substantial injustice has been perpetrated upon the minority? What was the actual working of the old schools and what is the actual working of the new schools? How far were they acceptable to and accepted by the people? Was the law being applied rigorously or otherwise? What is the grievance? Is it a nominal one or a substantial one? On this last point we have differences of opinion, but I call your attention to one piece of evidence, which was submitted to the Canadian Privy Council, and which will be found on pages 172 and 173 of the report, as showing, at any rate to my mind, some doubt as to how far this grievance went, and as convincing me of the strong disposition on the part of the Manitoba government to deal generously with the minority, if they were not interfered with. I call your attention, Sir, to the report on the French schools submitted by Mr. Ewart to the Canadian Privy Council, and put in the blue-book as Exhibit Q. What does that exhibit show? It shows that there were ninety-one Catholic schools of the old school board; it shows that the total number of districts disband-

ed for various reasons was twenty-four. In the majority of these, the Catholics attended the public schools, where it was possible for them to do so. Twenty-seven of these old districts together with nine newly formed ones accepted the public school system, making a total of thirty-six school districts now under Government control. That fact is an important one : that thirty-six separate schools have come voluntary under the new school Act ; and it is evidence, in its face, that the working of the Act of 1890 is not as drastic or as obnoxious as the Act itself might seem by simply reading it to be. And I say that while the Act itself may have largely interfered with the separate school system, if the practical working of it out is such as to give satisfaction to the minority, surely we would not interfere. Whether it be so or not, I do not know ; but I find that Senator Bernier, who was a superintendent of the Roman Catholic schools, comments in his speech to the Senate upon that report of Inspector Young and upon the statement of fact contained in the report that thirty-six schools came under the new government school law. He gives his reasons as follows :—

> The local government were anxious to have some of our schools brought under the law in order to be able to base an argument upon the change. An inspector was sent to them who told them that if they wanted to keep up their schools the government would not be too exacting about compliance with the regulations. He told them that they might quietly give any religious instruction in the school after school hours. He told them that they could begin and close school work by saying the ordinary Catholic prayers and even suggested how it should be done. Instead of opening the school at a certain hour, they might open some few minutes before, and at the closing they might close a few minutes after the regular hour, so that they might be able to say that there had been no prayer during the school hours. There are forms of report provided by the government. I have been informed by certain parties that the teachers of those schools were advised that if the clause as to religious instruction was embarrassing to their conscience, as this report has to be under oath, they might strike out that clause.
>
> * * It might be said that the local government, being disposed to shut their eyes to the management of their schools, we might be satisfied and let the matter drop. My reply is that there are principles involved that we cannot overlook.

Why do I quote that ? I quote it to show that there is evidence of a strong disposition on the part of the local government to concede to these outlying schools privileges which were not strictly within the letter of the law. I quote it to show that they were allowed to teach what religious instruction they pleased before and after school hours. I quote it to show that the Manitoba government were willing that the provision requiring an affidavit to be made that no religious instruction had been imparted, might be eliminated. I quote it to show that the government of Manitoba were prepared to settle the question by amicable agreement, if they had been approached in that spirit ; and I have no doubt, in the face of those statements, if they be true,—and I do not think anybody will question them—that if the Manitoba government, imbued with the ideas I find they were imbued with, determined to concede to the French schools, a very large measure of the demands that were being made on their behalf there would not have been, there ought not to have been, there could not have been any difficulties whatever in settling the matter to the entire satisfaction of the minority and on a basis similar to that on which the school question has been settled in the maritime provinces.

Mr. McNEILL. Does the hon. gentleman know the date of those concessions ?

Mr. DAVIES (P.E.I.) They are referred to in the school inspector's report for 1894, and Senator Bernier's speech was made in 1895. So that, up to the very time the judgment of the Privy Council was given, we find, that, by a system of concessions, concessions which everybody would say were fair and just, the Roman Catholics congregated together in settlements by themselves, were permitted to teach their religious exercises, and the disposition of the government was, that they should have the fullest latitude in this regard, and that the strict letter of the law of 1890 should not be enforced, as against them.

NATIONAL SCHOOLS IN MARITIME PROVINCES.

Now, what did we hear last night ? We heard the speech of my hon. friend from Halifax (Mr. Kenny), a speech marked, I will say for him, by broad statesmanship and fair-play. He told us, that he came from a province where intolerance in religious matters was unknown. He told us, that the Roman Catholic minority in Nova Scotia, under a modus vivendi which has not the sanction of the law, but which has the sanction of a quarter of a century's practice, are enjoying a measure of religious liberty as large as they desire. He told us, that no man could be found in that province to-day to raise his voice against the manner in which the public school law of that province is being carried out. He told us, that, while under the strict letter of the law they have no rights at all with respect to religious education in the schools under the practical application of the law, under the modus vivendi which justice and conciliation has brought about, there is such a measure of fair-play extended to them that no injustice can be charged ; that there is all the religious education in the schools which they desire, and that, as a Canadian, he is willing to leave these educational matters to the majority in each province, feeling confident that they

will give a fair, honest measure of justice. He says, that, where there is a parliamentary compact, it should be observed. That part of his argument is all very well. But what I wish to point out is, that the people of Manitoba are sprung from the same stock, are imbued with the same spirit of fair-play as the people of Nova Scotia are, and that, if justice has been done by the Protestant majority of Nova Scotia to the Catholic minority there, the same people in Manitoba, under similar circumstances, will give a similar measure of justice there.

Mr. KENNY. They have not done it yet.

Mr. DAVIES (P.E.I.) The hon. gentleman says they have not done it yet. And we have heard a similar argument advanced, time and again, during this debate. Let me ask the hon. gentleman, what opportunity have they had? How many months elapsed after it was first known that their law infringed upon the privileges or rights of the minority before they were called upon to remedy it?

Mr. KENNY. Five years.

Mr. DAVIES (P.E.I.) I am glad the hon. gentleman has brought this question up, because I wish this argument to be settled once and for ever. Until the month of February, 1895, it was not known, it was not believed by a lawyer in this Dominion, that the judgment of the Privy Council would be as it was. It was believed by everybody, that the judgment of 1892 had for ever settled the question. It was not known, it was not believed, that the law was an infringement upon post-union privileges. I believe petitions had been presented to the Council before that, but the Council did not act, and would not act, because they were not sure of their power. As soon as it was determined, that this legislation of Manitoba did infringe upon the privileges of the minority, then, and not till then, the time began to run when Manitoba might fairly be expected to remedy the wrong, if wrong there was. But I have pointed out to the hon. gentleman, that the ink was not dry upon the judgment before the government of Manitoba, instead of being invited to do justice to the minority, were hailed as culprits before the bar of the Privy Council and threatened with coercion, if they did not restore the separate schools to these people.

Mr. KENNY. The majority coerced the minority in Manitoba.

Mr. DAVIES (P.E.I.) The hon. gentleman sees—and no man has a clearer mind—that it was not till the Privy Council's judgment was given in 1895, that it was known, that there was any infringements of the rights of the minority. The judgment of the Privy Council in 1892 had run in an entirely different direction, and had shown that the Act of 1890 did not infringe any privilege which our Roman Catholic friends were supposed to have. But, Sir, I want nothing more than the main lines laid down by the hon. gentleman in his speech last night.

P. E. ISLAND SCHOOL LAW.

Sir, I come from a province where the Free School Act was introduced as far back as the year 1877. I had the honour of introducing that Act myself. I was charged with doing an act of grievous injustice to the Roman Catholic minority of that province. Nothing was ever further from my thought and wishes than to do an injustice to anybody, minority or majority. I knew I had not done an injustice. Petitions were sent from all over this Dominion to the Federal Government to disallow the law, but the Dominion Government refused to disallow it. I was attacked venomously by my opponents for having dealt a cruel blow at the Roman Catholic separate schools. I was told, that I was the enemy of the church; I was told that I was a Protestant bigot; I was told that I was a man who had not the interest of the people at heart. I was denounced, day in and day out, until, I fancy, a large number of people must have thought that I was a kind of ogre, ready to do wrong wherever I could against those of a different faith from my own. I had the privilege of meeting with the predecessor of the present Archbishop of Halifax, the Right Reverend Dr. Hannan, who talked the whole matter over with me. He had the matter submitted to him by the then Bishop of Prince Edward Island I submitted to him, the provincal government's side of the story. The Archbishop talked it over with the Right Reverend Bishop McIntyre. And what was the result? The result was a settlement upon lines so broad, so tolerant, so generous and so just, that, twenty years after that Act was passed, although there has hardly been an amendment, even to the extent of dotting an "i" or crossing a "t," and, although, when it was passed, nearly half the population were up and denouncing it, I stand here proudly, in this House, and say, that not a man can be found in Prince Edward Island to-day who will say, that a scintilla of injustice is being perpetrated upon the Roman Catholics of that province. And why is that? If we Prince Edward Islanders had been taken by the throat then and told: We will coerce you into yielding this, that and the other; if the minority of Prince Edward Island had been taken under the wing of a majority of this Parliament; if this Parliament had then attempted to dictate to us——

Mr. WELSH. They couldn't do it.

Mr. DAVIES (P.E.I.)—how we should act, what concessions we should make, is there a man here who imagines that we would be living in the blissful state we are to-day, under a system which gives even-handed

justice to all, and which is complained of by none? Sir, do you doubt that the same results which flowed from the policy of conciliation in Prince Edward Island and in Nova Scotia would also follow the adoption of the same policy towards Manitoba? Do you doubt, Sir, that if you do to them as you did to us—if you adopt towards that province the statesmanlike policy which was adopted towards New Brunswick in its day of trial, and which was adopted towards Prince Edward Island in its day of trial—the bitterness, and the strife, and the party, racial and religious differences which threaten to divide and dismember this new confederacy altogether, will be entirely allayed and done away with? Sir, I appeal against the whole policy of coercion, to the experience of a quarter of a century in the maritime provinces; and I say that you are not statesmen if you ignore it. I say if you adopt a policy of coercion which is hateful to this age, you are adopting a policy which will undermine the foundations upon which this great confederation has been established.

A POLICY OF TOLERATION AND CONCILIATION.

We are a country of different races, of different creeds; we cannot live together except we are prepared to extend to each other reasonable toleration, fair-play and even-handed justice. I re-echo the words which the hon. member for Halifax (Mr. Kenny) uttered last night, that in his opinion, the people of all parts of this Dominion, the majority of every province, is prepared to extend that toleration, that even-handed justice, if they are only permitted to do so. Why, then, interfere just now by adopting this hateful principle, repugnant to every British mind, repugnant to every French mind, repugnant to every Canadian mind, a policy which, as I said just now, may result—I hope to God it won't—in disrupting this new confederacy from one end to the other.

THE REMEDIAL ORDER.

Now, Sir, it is said that this remedial order was not a drastic order, that Manitoba should not have taken offence at it, that it was in itself really a species of conciliation. Why, Sir, any man in his senses who takes up that remedial order, will see that nothing could be more peremptory, nothing could be more arbitrary, nothing could be more drastic. The hon. Minister of Justice intimated, and the Minister of the Interior followed him, that the remedial order must be read in connection with the covering reasons—the covering order, I think they called it—the reasons given by the Council for its passage. Sir, the province of Manitoba had simply to do with the remedial order itself, and that remedial order in its terms was as severe, as drastic, and as arbitrary as the English language could make it. It ordered, and required, and adjudged that they should restore, without further inquiry, and without reference to the facts, every right or privilege which the petitions alleged the Roman Catholic minority of the province had received by post-union legislation. It gave no room for conciliation, it gave no room for compromise; it gave no room for treating as between the contending parties and seeing if a fair and just basis could not be arrived at, which would do even-handed justice to both parties. Instead of negotiations, you had judgment; instead of conciliation, you had this peremptory order; instead of discussion, you had this absolute decree; and in face of that, what could the Manitoba legislature do, but resent it? You did not give them a chance to do otherwise. There was nothing left for them but to say what they did say. And what did they say? They said: In our judgment, we doubt very much whether you have examined into the facts; you cannot have known the facts; if you had the facts before you, you never would have made such an order. Sir, let me call attention to the reply given by the Manitoba legislature to that drastic order of the Privy Council, in order to see whether there was that bitter spirit of animosity prevailing in that country which it is alleged there was; or whether, on the contrary, there was a desire to settle this question upon a fair, a just, and an equitable basis. Sir, I find, at page 355 of this blue-book, that in the following month of June, the legislature of Manitoba met, and in replying to the remedial order, they state:

> The privileges which by the said order we are commanded to restore to our Roman Catholic fellow-citizens are substantially the same privileges which they enjoyed previously to the year 1890. Compliance with the terms of the order would restore Catholic separate schools with no more satisfactory guarantees for their efficiency than existed prior to the said date.
>
> The educational policy embodied in our present statutes was adopted after an examination of the results of the policy theretofore followed under which the separate Roman Catholic schools (now sought to be restored) had existed for a period of upwards of 19 years. The said schools were found to be inefficient. As conducted under the Roman Catholic section of the Board of Education they did not possess the attributes of efficient modern public schools. Their conduct, management and regulation were defective; as a result of leaving a large section of the population with no better means of education than was thus supplied, many people grew up in a state of illiteracy. So far as we are aware there has never been an attempt made to defend these schools on thir merits, and we do not know of any ground upon which the expenditure of public money in their support could be justified.

And further down:

> We believe that when the remedial order was made, there was not available then to Your

Excellency in Council full and accurate information as to the working of our former system of schools.

We also believe that there was lacking the means of forming a correct judgment as to the effect upon the province of changes in the direction indicated in the order.

Being impressed with this view, we respectfully submit that it is not yet too late to make a full and deliberate investigation of the whole subject. Should such a course be adopted, we shall cheerfully assist in affording the most complete information available. An investigation of such a kind would furnish a substantial basis of fact upon which conclusions could be formed with a reasonable degree of certainty.

MANITOBA'S INVITATION.

Well, Sir, I submit this reply was calculated to promote a conciliatory settlement, and that the olive branch which was held out by the Manitoba legislature in the words I have just read should have been accepted by our Government. They say: We cannot conceive that in making that drastic order you really understood the whole case. We do not want to do injustice, we invite you to examine what was the character and working of the old school system, and we invite you to examine what was the effect of the new system. We do not dispute your power to interfere, but do not interfere, do not order us to do anything, until you find out the facts. Could anything be more in accordance with common sense? Could anything be plainer? Could anything be more reasonable? I say that if the Government had been animated by any desire to do what was right and fair, they would have accepted the invitation, and would have entered upon the inquiry; and I venture to say that if they had done so, we would not be to-day in the miserable condition in which we find ourselves, with parties divided upon the eve of an election by racial and religious differences fanned to white heat. Now, Sir, what was done then? For the first time, the Government of Canada began to discover that they had done wrong. There was an honourable backdown on their part. It is well known that the Cabinet is entirely divided as to the manner of dealing with this matter. The members of the Cabinet who desired to settle the matter on a conciliatory basis were for the moment in the ascendancy. They determined to negotiate. They practically withdrew the remedial order. They penned an Order in Council which indicated a desire to settle this matter by means of a compromise. They did not want to carry out the remedial order of July. They were perfectly satisfied then to get a half loaf. They seemed to be on the eve of accepting the offer which the Manitoba government had made them, and I have never been able to find out why, having written the Order in Council they did in July, 1895, they afterwards retreated to the coercive policy which they had adopted in February, 1895. What do they say:

In the interest of all concerned it will not be disputed that if possible the subject of education should be exclusively dealt with by the local legislature. Upon every ground in the opinion of the sub-committee this course is to be preferred, and with the hope that this course may yet be followed the sub-committee have now the honour to recommend that Your Excellency will be pleased to urge upon the government of Manitoba the following further views which may be pressed in connection with the remedial order.

The remedial order coupled with the answer of the Manitoba government has vested the Federal Legislature with complete jurisdiction in the premises, but it by no means follows that it is the duty of the Federal Government to insist that provincial legislation to be mutually satisfactory should follow the exact lines of this order. It is hoped, however, that a middle course will commend itself to the local authorities, so that Federal action may become unnecessary.

With a view to a settlement upon this basis, it seems desirable to ascertain by friendly negotiations what amendments to the Acts respecting education in public schools in the direction of the main wishes of the minority may be expected from the Manitoba legislature.

That is all which could be desired. There is a disposition shown to accept the offer for inquiry. What became of it? Why did they not act upon it? No investigation was held, nobody was sent. Why did not a member of the Government go out to Manitoba? Why was this movement not followed up with an inquiry of some sort? No one knows, no explanation has been given. The only explanation is that the coercive branch of the Government again gained the ascendancy, and the olive branch which they had been willing to hold out was again withdrawn.

MANITOBA'S ANSWER IN 1895.

Then we have the final reply of the Manitoba government, dated December, 1895, in which they say:

It is a matter of regret that the invitation extended by the legislative assembly to make a proper inquiry into the facts of the case has not been accepted, but that, as above stated, the advisers of His Excellency have declared their policy without investigation. It is equally a matter of regret that Parliament is apparently about to be asked to legislate without investigation. It is with all deference submitted that such a course seems to be quite incapable of reasonable justification and must create the conviction that the educational interest of the people of the province of Manitoba are being dealt with in a hostile and peremptory way by a tribunal whose members have not approached the subject in a judicial spirit or taken the proceedings necessary to enable them to form a proper opinion upon the merits of the question.

The inquiry asked for by the reply of the legislature to the remedial order should, in the opinion of the undersigned, be again earnestly invited, and in the event of the invitation being accepted the scope of the inquiry should be sufficiently wide to embrace all available facts relating to the past or present school systems.

The desire of the legislature and government of the province throughout the whole course of the proceedings, beginning with the enactments

of the statutes of 1890, has been to provide the best possible means of education for the children of our citizens. To that end every possible effort has been put forth and every possible pecuniary sacrifice made in order that there might be established a school system based upon sound principles and equipped and administered in accordance with improved modern educational methods. Though very much remains to be accomplished it may be fairly asserted that a reasonable measure of success has attended the efforts which have thus been put forth.

In amending the law from time to time and in administering the system it is the earnest desire to remedy every well-founded grievance and to remove every appearance of inequality or injustice that may be brought to notice.

With a view to so doing, the government and the legislature will always be ready to consider any complaint that may be made in a spirit of fairness and conciliation.

Nothing could be more commendable than the language of this Order in Council, nothing could evince a more strong or sincere desire and disposition on the part of the Manitoba government to do what was right, and to submit to any order that might be made by this Government, or any legislation that might be carried by this Parliament, provided only they were granted what was asked, namely, a full and proper investigation of the facts.

ARE WE BOUND TO LEGISLATE ?

Now, we have this Bill before Parliament, and hon. members are bound to ask themselves : Are we bound to legislate ? Everybody says, certainly not. The Lord Chancellor says, certainly not, unless Parliament is convinced that there is a substantial ground for their action. Nobody denies that. But how are we to be convinced ? Is is to be by speeches delivered across the floor by hon. members of this House, or is is to be by the production of evidence ? There is no evidence on which we can arrive at an honest conclusion. I do not deny the power of this Parliament to legislate ; I do not deny that under certain circumstances we ought to legislate ; but I assert that our right to legislate depends entirely on the decision as to whether the case is one of urgent necessity, whether there has been a flagrant injustice committed. If Manitoba had declined absolutely to remove that grievance I say we ought to legislate. Our powers are to be exercised as a last resort, and as a last resort only, and the best remedy we can apply will be a poor and impotent remedy, compared with that which can be given by the local legislature. The Minister of Justice and the Minister of the Interior admit that one ounce of a remedial proposition carried out by the provincial legislature is worth more than one pound of remedial measure attempted to be carried out by this Parliament. It is admitted on all hands that even if you approach the subject with a fervent and strenuous determination to do right, it is the most difficult matter possible to carry out. You are beset with difficulties on all sides, and when you pass your law there are no means of carrying it into effect. What have we here ? We have urgency denied, we have injustice denied, we have investigation asked for, we have the promise of fairness and conciliation by the local government, and if, on investigation, any injustice is shown, we have the pledge of the local legislature, reiterated by the government of Manitoba that they will apply a remedy. Under such circumstances, it will be a high-handed act on our part, it will be a tyrannical exercise of our constitutional rights, and an abuse of those rights to endeavour to force a coercion Bill through Parliament, and impose on that province a system which the enormous majority of the people say they are opposed to. How can we impose such a system against the wishes of the people. Can it be successfully argued that you can do so in the interests of the minority ? No. The interests of the minority are not subserved by passing an abortive law which can never go into effect ; the interests of the minority are not conserved or preserved by attempting to pass a law which is admittedly ineffective and which, unless supplemented by further legislation, will not be worth the paper on which it is written.

THE HIGHER LAW THE GOLDEN RULE.

But, Sir, the hon. gentleman who moved the Bill (Sir Charles Tupper), and the hon. gentleman who spoke this afternoon (Mr. Foster), both appealed to this House in warm and impassioned language, not only to pass this law because it was within our competence, not only to pass this law because the constitutional duty lay upon us ; but they appeal to the higher law, to the golden rule, to do unto others as we would that others should do unto us. And by virtue of that higher rule, they ask us to force this coercive law upon the people of Manitoba. How can any maritime province man, who remembers the history of his own province vote for this Bill on any such plea ? Sir, if I adopted the higher rule of doing unto others as I would be done by, then I must refuse to vote for a coercive Bill, carried in Parliament without investigation, and in the face of the denial by the province to be coerced that any injustice exists. I must refuse to do towards Manitoba what I would resist if other people tried to do towards the province I represent, and inasmuch as I would resist coercive legislation being applied under similar circumstances to Prince Edward Island, I should according to the higher law and the golden rule, refuse to apply coercion to a people who are piteously imploring us to investigate the alleged injustice and pledging that they will do justice if you only give them a chance.

THE LEGAL ASPECT OF THE CASE.

Now, Sir, let us look at the legal aspect of this law which is now proposed. Is the law in itself of any use ? Can it legally be made of any effect ? Is it a final law or can you legislate afterwards upon it ? Sir, is our legislation in this matter final and irrevocable, or not ? The question is an important, if not a vital one. If the answer is in the affirmative few would care to pass it now in the dying hours of a moribund Parliament, just before an appeal is to be made to the people. If, on the contrary, it is ordinary legislation, amendable and repealable from session to session the evils, the defects and the dangers are neither so great nor so grave. But our jurisdiction is neither exclusive nor general nor concurrent with the provinces. We possess simply a limited power, absolutely dependent upon certain necessary antecedent conditions and once exercised it cannot be recalled. The Bill once passed, cannot by us or by our successors be repealed. When we properly legislate, our legislation becomes part of the educational law of Manitoba. As such it would seem to follow that it must be open to amendment from time to time by the Manitoba legislature, subject, like the rest of the educational laws of the province, to an appeal to the Privy Council by an aggrieved minority. But if our power is a strictly limited, conditional one, then it follows that once exercised it could not by us be recalled, the power once crystallized into law the law could not afterwards by us be repealed. A fortiori, it could not be repealed in part by amendment or modification. To justify a subsequent interference, we must show some general power. We have none. If we can amend we can repeal ; if we can recall in part, we can in whole, and that necessarily implies a general, if not an exclusive, jurisdiction. Nor does it seem we can reserve our powers in part for a future Parliament to exercise. In my opinion, it is a power to be exercised 'ad hoc.' We cannot delegate it, neither can we reserve it wholly or partially. In so far as we fail to legislate for the remedy of any grievance, whether A, B or C, adjudged by the remedial order, just in so far do we and have we exercised and exhausted our discretion. By the very act of accepting and enacting "A," and declining to accept or enact "B," we have exercised and exhausted the limited statutory jurisdiction vested in us. We can determine to postpone action, or we can decline to act at all, but if we do act, our action will be final and must be complete.

HAVE WE JURISDICTION ?

Does the Bill exceed our jurisdiction ? Our power to legislate is based entirely on the remedial oder. It is argued with much force that we can only legislate to carry out the identical findings and decrees of the remedial order, neither less nor more, and that only if and when the legislature refuses to carry out these findings. It is denied that we have power to legislate to carry these findings out in part for the reason that the legislature might have carried that part out if ordered so to do. In other words, if the remedial order directs "A," "B" and "C" to be done, and the legislature declines to carry "A," "B" and "C" out, then this Parliament has not power to to enact "A" alone, or "A" and "B" alone, for the reason that the legislature, if it had been required to carry out such a limited remedial order, might have been perfectly willing to do so. It is said that it is only the legislature's refusal to act which gives us jurisdiction at all, and as there has been no refusal to remedy grievance "A" alone or grievance "B" alone, or "A" and "B" alone, we have no jurisdiction to do so. The argument is a very strong one, and has the sanction of eminent legal authorities. If sound it is absolutely fatal to this Bill. But whether this be so or not, and on that I express no opinion, at any rate, it is plain beyond dispute that this Parliament cannot legislate beyond the very terms and specific adjudications or findings of the remedial order. In my opinion, such an order, being the controlling basis of all legislation, never ought to be made without a thorough investigation into all the disputed facts. The Privy Council, to which the appeal is made, must first determine what facts are proved, what grievances actually exist, and then, as a matter of state policy, how far it is proper or wise or prudent to go in ordering redress. The extent of their decision necessarily limits our powers, and we cannot act as a court of appeal with unlimited jurisdiction and decide on adopting other or different modes of redress to those decreed and adjudged by the remedial order. We can determine, under the circumstances, not to act for the present, not to exercise at this particular time our statutory discretion, or we can determine to exercise it in whole or in part, but our statutory discretion is necessarily limited by the terms of the order. Now, look at this order. It prescribes as a remedy "A," "B" and "C," and those only. It does not in any other respect alter, abridge or amend the Acts of 1890. It authorizes us to enact such legislation as is necessary to carry "A," "B" and "C" into effect, but nothing beyond that. We cannot interfere with the general scope of the educational machinery of Manitoba, except to the extent that is essential and necessary to carry out "A," "B" and "C." The remedial order says nothing about establishing a separate Board of Education. It is absolutely silent on the subject. Unless it is necessarily implied in "A," "B" and "C," we cannot legally constitute such a board. All the rights and privileges conceded to the Roman Catholic minority by the remedial order can as well be

carried out by the existing Board of Education of Manitoba as by a separate board. If the contrary was thought, the remedial order should have expressly mentioned it. But a separate board is not necessary to give the minority "A," "B" and "C." If the Manitoba legislature had by legislation of its own, in obedience to the remedial order, conceded the Roman Catholic minority the right to build, maintain, equip, manage and conduct and support Roman Catholic schools under the supervision of the existing Board of Education, we could not interfere to supplement their legislation by establishing such a separate board. Neither can we do so unless such is adjudged and ordered by the remedial order. The establishment of such a board is neither expressly adjudged by the remedial order, nor necessarily to be implied from the three specific rights adjudged nor essential effectually to confer those rights. This being so, we have no power to constitute such a board, and the Act before us being ultra vires in that respect, will be only useful as a source of unlimited litigation.

I have reduced my views on that abstract legal question to writing with very great care, and I commend them to the hon. Minister of Justice or to any other legal gentleman on the other side of the House who feels disposed to controvert them. If I am right in my conclusion, the measure you have before you, if passed, will not be worth the paper on which it is written. I may be wrong; I am open to conviction if I am wrong. That, of course, is a practical legal question which only legal gentlemen will indulge in. I am satisfied that the reasoning cannot be controverted; and unless you can show conclusively that involved and necessarily involved in A, B, and C, is the constitution of a separate board of education, then you have no power whatever to constitute it. I have argued, and I am satisfied beyond a doubt, that A, B, and C can be carried out successfully by the present Board of Education as established. That being so, A, B, and C is the extent of the remedy you can propose, and you cannot add to that remedy an additional one. You cannot constitute a board which the remedial order did not call into existence or require.

COERCION AND CONCILIATION.

Now, Sir, I ask the Government what are they doing in the matter of conciliation? In July they were prepared to conciliate. Where do we stand to-day? We stand here, with the Secretary of State inviting urging, almost imploring, this House to pass a coercion Bill in one breath, and in the next breath telling us that he is about to invite the Premier of Manitoba to enter into consultation with him for the purpose of coming to an amicable settlement. Sir, he asks us to forge a club for him which he may hold over the head of the Manitoba Premier, and, with that club in his hand, say to him: "Now, Sir, I want you to come to an amicable settlement with me." Does he suppose that it is within the bounds of possibility to reach an amicable settlement in that way? And what did we hear to-day? That there was not a scintilla of basis for the statement he made to the House the other day, as to any proposition have been initiated by Mr. Greenway at all. The very telegram he quoted was only quoted in part, and Mr. Greenway has complained bitterly in the local legislature that the whole of it, which he deems important, was not quoted. But, Sir, if the Government are only discharging their duty under the constitution, if what they are doing is imperative upon them, and they are not going further than the constitution requires them to go, I ask, what do they want with consultation, with conciliation? If they are being impelled by a stern sense of duty under the constitution, how dare they hesitate? How dare they retract or withdraw? It shows the utter fallacy, the ridiculously nonsensical fallacy, of the arguments behind which they seek to shelter themselves for want of better. It shows their want of sincerity. I say that these gentlemen are acting in a way which, if human nature is the same in Manitoba as elsewhere, must prevent a frank, friendly, and final settlement of this difficulty. Sir, what is their true policy? If they want to settle it, they can honourably withdraw the Bill yet. There is no dishonour in withdrawing the Bill. They have been told, time and again, and I repeat the statement, that on this side of the House we want to make no political capital out of this question. We are anxious to have it withdrawn from the arena of Dominion politics. We are sincerely desirous of having conceded to the minority in Manitoba the rights and privileges which they ought to enjoy; and we think that can be done, and will be done, if you abandon coercion and enter upon a policy of negotiation and conciliation. We know that conciliation has marked out satisfactory results elsewhere, and we believe that if you adopt it here, an honourable and lasting arrangement, based upon truth, honour and righteousness—which alone can make such an arrangement permanent—can be entered into. You can make an arrangement, which, while doing justice to the minority, will not violate the conscience of the majority or unnecessarily invade the autonomy of the province. You can recognize provincial rights, while, at the same time contending that injustice has been done to the minority which should be remedied; and when you come to determine just how far that ought to be done, it must necessarily be a matter of compromise, and be done in a conciliatory spirit, if done at all.

REASONS FOR OPPOSING BILL SUMMARIZED.

Holding these views, I oppose this Bill. I oppose this Bill because it is a political

fraud, a parliamentary juggle; because it embodies the maximum of evil with the minimum of good; because, while applying a coercion hateful to all Canadians, it is confessedly inefficient and unworkable; because, in its very face, it lacks finality, and by calling for further amendments must necessarily rekindle and encourage racial and religious disputes. I oppose it because it involves an interference with provincial rights, only to be tolerated in the last resort, and after careful investigation proves the existence of well-founded grievances, which the legislature will not remedy. I oppose it because, while technically within our powers, it is, under present circumstances, morally outside them, and because it is an uncalled-for and arbitrary exercise of a limited constitutional privilege or power only to be resorted to when all other means have failed. I oppose it because, while ostensibly pretending to remedy the grievances of the minority, it gives them no effectual relief, and while creating a vast and obnoxious machinery, provides no motive power, either to start it going, or keep it moving. I oppose it because the experience of all the provinces has shown that the majority in each province will, if left to themselves, do even-handed justice to the minority. I oppose it because, while violating the established practice of a quarter of a century, it creates a precedent which, if followed, may eventually disrupt and destroy the confederacy. I oppose it because, involving one of the gravest questions of state policy, ever brought before us, a question pregnant with most far-reaching and dangerous results, it is beyond the moral competence of this dying Parliament, in its dying hourse to enact. I oppose it because in my judgment it is more than doubtful whether, once passed, it can afterwards be altered or amended by this Parliament, because the power given to us to legislate at all strictly limited and dependent upon certain necessary antecedent conditions once exercised is exhausted and cannot be again acted upon, because it is probably final and irrevocable, so far as we are concerned, and, therefore, doubly calls for prudence, care, time, and investigation on our part before being made the law of the land. I oppose it because the present exercise by us of the power is bitterly opposed to the wishes and desires of the vast majority of the Manitoba people. I oppose the Bill because the higher law, and the golden rule bids me do unto others as I would be done by, and as I would bitterly resent coercion being applied under similar circumstances, to my province, so I will decline, unless in the last resort, and after fullest investigation, to join in applying it to another province. I oppose it because I do not believe in force as a remedy for wrong.

But while I oppose this Bill, I know there is a better way, a nobler path to follow, a simpler and more British method by which the grievances may be removed, and justice for the minority obtained. That way, that path, that method, is the equitable and British method proposed by the leader of the Liberal party. His earnestness, his sincerity, his ability, are beyond cavil or doubt. His race, his creed, his experience render his position unique, and his powers in such a case as this, very great. His noble statesmanlike views put forward in his speech during this debate have established for him a reputation and a confidence rarely before enjoyed by a Canadian public man. His proposition for a settlement commends itself to our common sense, and involves an amicable settlement through provincial legislation, based on conciliation and compromise, and after thorough discussion and investigation. Sir, I cannot but believe that with coercion abandoned and conciliation substituted the Protestant majority of Manitoba will be ready to accord to their weaker brethren a full measure of justice, pressed down and running over.